



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

11201 Renner Boulevard  
Lenexa, Kansas 66219

MAY 12 2014

**ACTION MEMORANDUM**

**SUBJECT:** Request for a Time-Critical Removal Action at the Heartland Plating Site,  
Bettendorf, Iowa

**FROM:** Adam Ruiz, On-Scene Coordinator  
Planning and Preparedness North Section

**THRU:** Dave Williams, Chief  
Planning and Preparedness North Section

**TO:** Cecilia Tapia, Director  
Superfund Division

Site ID#:	B780
CERCLIS ID#:	IAN000702275
Removal Category:	Time-Critical
Nationally Significant:	No

**I. PURPOSE**

The purpose of this Action Memorandum is to request and document approval and funding for a time-critical removal action for the Heartland Plating Site (Site). The time-critical removal action will remove and properly dispose of hazardous substances remaining at a defunct plating business. The Site was subject to a Resource Conservation and Recovery Act 7003 Order for possible abandonment of hazardous waste. The Site was referred to the Superfund Program by the RCRA Program on November 19, 2013, after it was determined that due to financial reasons, the responsible party was unable to perform the necessary cleanup actions.

The proposed time-critical removal action is necessary to mitigate the immediate threat to human health and the environment posed by abandoned plating wastes remaining in an unsecured building. The abandoned plating chemicals are hazardous substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) section 101(14).

The proposed actions will take an estimated 60 working days to complete. There are no nationally significant or precedent-setting issues associated with the Site. The Site is not on the National Priorities List (NPL).

30285209



Superfund



Printed on Recycled Paper

## **II. SITE CONDITIONS AND BACKGROUND**

### **A. Site Description**

#### **1. Removal site evaluation**

During the 1970s, Prime Plating constructed the facility, a 43,000 square foot building on a 1.697 acre lot at 3900 Elm Street, Bettendorf, Iowa. From 2003, until operations ceased in 2011, the facility was operated by Heartland Plating, Inc (HPI). HPI conducted metal electroplating, plating, anodizing and coloring at the facility during its time in operation.

In October 2010, the U.S. Environmental Protection Agency Region 7 Air and Waste Management Division performed a Resource Conservation and Recovery Act (RCRA) compliance evaluation inspection. Following the inspection, the EPA determined that HPI had created an imminent and substantial endangerment to human health and/or the environment by its mismanagement of hazardous wastes at the facility, and accordingly issued a RCRA § 7003 Unilateral Administrative Order (UAO) to Heartland Plating, Inc., the estate of the former owner Gerhard Patigler, and the facility's then-current operator and executrix of the estate Marion Patigler (Gerhard Patigler's daughter) (collectively, "Respondents"), on November 24, 2010. The UAO required the Respondents to inventory and conduct hazardous waste determinations on all solid wastes at the facility, formulate plans for management and/or disposal of all hazardous and solid wastes stored at the facility, to restrict access to areas where releases of hazardous waste have potentially occurred, and to conduct characterization activities and cleanup of any contaminated areas at the facility.

Respondents submitted several reports and plans required by the UAO, and engaged in disposal of some of the hazardous waste, but they failed to adequately manage or dispose of a significant amount of the waste at the facility. The EPA issued multiple Letters of Warning (LOW) in November 2010, December 2011, and March 2012, for failure to comply with the terms of the UAO, including failure to properly manage and dispose of thousands of gallons of waste chromic acid, chromium containing solutions, corrosives, waste-water treatment sludge, anodizing solutions, cyanide and other hazardous wastes, which to date remain on-site. Though some measures were taken by Respondents to address the issues raised in the LOWs, they continued to fail to comply with the UAO, repeatedly citing lack of funds to complete the disposal activities and to fulfill other requirements. All off-site waste shipment activities ceased by October 1, 2012, and significant amounts of both hazardous wastes and products remain on-site.

In July 2013, the EPA conducted a Facility visit and documented that the Site was unsecured, that its physical structure was compromised and that power to the facility was turned off. Multiple 55-gallon drums, large totes and small containers labeled with hazardous waste stickers were being stored at the facility. The containers appeared to be the same containers observed by EPA personnel during a September 25, 2012, site visit.

In August 2013, a fourth LOW was sent to the Respondents, noting a failure to restrict access to the property and to complete the off-site disposal of waste as required by the UAO. No substantive response was received by the EPA.

On November 19, 2013, the EPA RCRA program referred the Site to the EPA Superfund program to conduct a site investigation and commence a Superfund-lead time-critical removal action as appropriate, to address the threat of release of hazardous substances then in storage at the facility.

In January 2014, a removal site assessment was conducted by the EPA and START. During this assessment, the same containers observed during the July 2013 site visit were still documented as being present. Samples were collected from various containers and were field screened to determine if they exhibited any characteristics of a hazardous waste. A subset of the samples was also sent to the EPA Region 7 laboratory for analysis. From the inventory obtained from the Respondents and from the samples obtained as part of the Site assessment it was determined that there were many containers of hazardous wastes being stored on-site. Due to the presence of the hazardous substances and the unsecured nature of the building, with no personnel present and the lack of electricity, conditions at the Site present an imminent and substantial endangerment to nearby businesses and transients who may enter the property.

**2. Physical location**

The Site is located at 3900 Elm Street, Bettendorf, Scott County, Iowa. The Site is located in an industrial area. As seen in the attached photograph, the facility is adjacent to the Mississippi River to the south and surrounded by industrial, residential and commercial properties.

**3. Site Characteristics**

HPI conducted operations at the Site until 2011. The Site includes one 43,000 square-foot building divided into the office and operational area. Site characteristics are as otherwise described above.

**4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant.**

Previous EPA compliance evaluation inspections documented the illegal storage of electroplating wastes which are characteristic RCRA hazardous wastes due to corrosivity and/or toxicity. These wastes are hazardous substances as defined by section 101(14) of CERCLA, and designated hazardous substances pursuant to 40 CFR § 302.4. These hazardous substances have been documented by the EPA as being stored in a non-secure manner and the threat of releases remains until the hazardous substances are controlled or removed.

**5. National Priority List (NPL) status**

The Site is not listed on, nor is it proposed for, the National Priorities List.

**6. Maps, pictures and other graphic representations**

An aerial photograph of the Site is attached. As seen in the photograph, the Mississippi River borders the site to the south and there are nearby residences approximately 75 yards to the southeast of the site.

**B. Other Actions to Date**

**1. Previous actions**

See subparagraph II.A.1 above, "Removal Site Evaluation."

## **2. Current actions**

No further actions have been taken since the removal assessment in January 2014.

### **C. State and Local Authorities' Roles**

#### **1. State and local actions to date**

The EPA has coordinated with the local Iowa Department of Natural Resources field office. IDNR is aware of the facility and their waste on-site and is supportive of an EPA removal action.

#### **2. Potential for continued state/local response**

State and local authorities have indicated that they lack the resources to conduct the response action provided for herein at the Site.

### **III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES**

#### **A. Threats to Public Health or Welfare**

Where the EPA makes a determination, based on the factors set forth in 40 CFR § 300.415(b)(2), that there is a threat to public health or welfare or the environment, the lead agency may take any appropriate removal action to abate, prevent, minimize, stabilize, mitigate or eliminate the release or threat of release. The factors in 40 CFR § 300.415(b)(2) that apply to this Site are:

#### **300.415(b)(2)(i) – Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants.**

The primary contaminants of concern at the Site are containerized corrosive and toxic hazardous substances. Corrosive and toxic wastes present a direct contact threat to human and ecologic receptors. Some of the containers are in poor condition. In the absence of this removal action the containers are likely to continue to deteriorate. This will allow for releases, and threat of releases, of hazardous substances into the environment that would present unacceptable exposures to nearby human populations, animals or the food chain. The Site is abandoned and not adequately secured. Vandalizing of the Site could easily occur, which may result in additional releases.

#### **300.415(b)(2)(iii) – Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release.**

As previously described, there are numerous containers of hazardous substances that have been abandoned at the Site. Some of the containers are in poor condition. In the absence of this removal action, the containers will continue to deteriorate. This will allow for potential releases, and threat of releases, of hazardous substances into the environment. The Site is abandoned and not adequately secured. Vandalizing of the Site could easily occur, which may result in additional releases.

#### **300.415(b)(2)(vii) – The availability of other appropriate federal or state response mechanisms to respond to the release.**

The State has requested that the EPA respond to this release/threat of release. There are no other known appropriate federal or state response mechanisms available to conduct an appropriate response at the Site.

#### **IV. ENDANGERMENT DETERMINATION**

The threatened release of hazardous substances at and from the Site, if not addressed by implementing the removal action selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, or welfare, or the environment.

#### **V. PROPOSED ACTIONS AND ESTIMATED COSTS**

##### **A. Proposed Actions**

##### **1. Proposed action description**

The proposed action will include the collection, characterization, segregation and transportation of hazardous substances located on-Site to an off-Site facility for disposal. This includes containerized wastes as well as any contaminated media. Transportation, treatment, storage and disposal of the hazardous substances will be in accordance with all applicable federal, state and local requirements and off-Site disposal will comply with the CERCLA Off-Site Rule promulgated pursuant to section 121(d)(3) of CERCLA, and codified at 40 CFR § 300.440.

##### **2. Contribution to remedial performance**

No remedial action is contemplated for the Site. In the event that the Site is listed on the NPL, it is expected that the response provided for herein will contribute to remedial performance, or not adversely affect any future remedial performance for the Site.

##### **3. Description of alternative technologies**

On-site treatment or in situ stabilization technologies are not feasible for this Site due to the volume of hazardous substances and the proximity to nearby residences. Off-Site disposal of wastes is the most cost-effective and viable removal alternative.

##### **4. Applicable or Relevant and Appropriate Requirements (ARARs)**

##### **Federal**

The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) at 40 CFR § 300.415, requires that removal actions shall, to the extent practicable and considering the exigencies of the situation, attain ARARs under federal environmental, state environmental or facility-siting laws. The following ARARs have been identified as being potentially applicable for this action:

Action/Prerequisite	Requirement	Citation
Hazardous Waste Determination	Definition and identification of hazardous waste	40 CFR §§ 261.20-33
Hazardous Materials Transportation	Identification of requirements for transporting potential hazardous materials	40 CFR Parts 171-179

## 5. State

A letter requesting that the state identify ARARs for this Site was sent on March 11, 2014. Potential ARARs identified by IDNR will be evaluated; State-identified ARARs will be complied with to the extent practicable.

## 6. Project schedule

It is expected that this action may begin within 60 days of approval of this Action Memorandum. However, the conduct of on-Site activities is dependent on the property owner's consent to access. The field work is expected to take 3-4 weeks to complete.

### B. Estimated Costs

The costs associated with this removal action are estimated as follows:

#### Extramural Costs

Removal Costs	\$219,467
Extramural Cost Contingency (20 percent)	<u>43,893</u>
Removal Ceiling	\$263,360

EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Ceiling for this removal action. Refer to the enforcement section for a breakout of these costs.

## VI. ENFORCEMENT

See attached Confidential Enforcement for this site. For NCP consistency purposes, it is not a part of this Action Memorandum. The total EPA costs for this removal action based on full cost-accounting practices are estimated to be \$263,360.

Direct Extramural Costs	\$263,360
Direct Intramural Costs:	50,000
EPA Indirect Costs (33.40 percent of all costs)	<u>104,662</u>
Total Project Costs	\$418,022

Direct costs include direct extramural and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost-accounting methodology effective October 2, 2000. These estimates do not include prejudgment interest, do not take into account other enforcement costs, including Department of Justice costs and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

**VII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN**

The actions proposed herein for the Site should be taken immediately. Should these actions be delayed, the potential threats to human health and the environment will continue and increase.

**VIII. OUTSTANDING POLICY ISSUES**

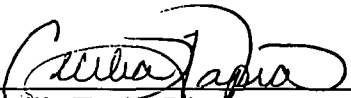
None.

**IX. RECOMMENDATION**

This decision document represents the selected removal action for the Heartland Plating Site in Bettendorf, Iowa, developed in accordance with CERCLA as amended, and is not inconsistent with the NCP. This decision is based on the administrative record for the Site.

Conditions at the Site meet the NCP criteria for a removal action, as set forth in 40 CFR § 300.415(b), and I recommend your approval of the proposed removal action. The removal ceiling, if approved, will be \$263,360. This amount comes from the Regional Removal Advice of Allowance.

Approved:

  
Cecilia Tapia, Director  
Superfund Division

5/12/14  
Date

Attachments: Site location map  
Confidential Enforcement Addendum





Heartland Plating, Inc.  
3900 Elm Street  
Bettendorf, IA 52722